

# BARNES & THORNBURG

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1614

Confirmation No.: 8145

Application No.: 09/836,567

Invention: **METHODS FOR IDENTIFYING  
AND TREATING RESISTANT  
TUMORS**

Applicant: Sawyer et al.

Filed: April 17, 2001

Attorney

Docket: 3051-67789

Examiner: Goldberg, Jerome D.

### Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on July 11, 2003

  
(Signature)

Garla L. Twyman

(Printed Name)

### PETITION UNDER 37 C.F.R. § 1.181

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This Petition under 37 C.F.R. § 1.181 is being filed to clarify the record in the above-captioned U.S. Patent Application Serial No. 09/836,567 (hereinafter the '567 application). The '567 application was filed on April 17, 2001 as a continuation application of U.S. Patent Application Serial No. 08/793,659 (hereinafter the '659 application). The parent '659 application was filed with a Declaration listing six inventors, Jason Scott Sawyer, James Jacob Starling, Stephen M. Spaethe, Gabriele Jedlitschky, Inka Leier, and Dietrich Keppler. The subject matter of the claims of the above-captioned continuation application (the '567 application) is the invention of Jason Scott Sawyer, James Jacob Starling, and Stephen M.

Spaethe. Accordingly, the above-captioned '567 application was filed with an unsigned Declaration naming Jason Scott Sawyer, James Jacob Starling, and Stephen M. Spaethe as inventors.

A Notice to File Missing Parts of Nonprovisional Application was mailed on May 9, 2001. In response to the Notice an incomplete copy of the Declaration filed in the parent '659 application was submitted to the Office on July 26, 2001.


The Declaration filed in the parent '659 application was signed in two parts (inventors Sawyer, Starling, and Spaethe signed one part and inventors Jedlitschky, Leier, and Keppler signed the other part) and only one part (signed by inventors Sawyer, Starling, and Spaethe) was apparently filed in response to the Notice. Accordingly, a Request for Continued Examination was filed on January 22, 2003 to submit, for the captioned '567 application, a complete copy of the Declaration filed in the parent '659 application. A request to delete Gabriele Jedlitschky, Inka Leier, and Dietrich Keppler as inventors in the captioned application was made at the time of filing the Request for Continued Examination on January 22, 2003.

The Declaration filed on July 26, 2001 in response to the Notice was intended to be proper. Applicants hereby request that the United States Patent Office review the prosecution of the captioned '567 application and determine the next action that should be taken by Applicants to correct defects, if any, in the Declaration filed with the Request for Continued Examination on January 22, 2003.

If the application was abandoned by filing a defective Declaration on July 26, 2001 in response to the Notice, the abandonment was unintentional, and Applicants request revival of the application under 37 C.F.R. § 1.137(b). The Assistant Commissioner is hereby authorized to charge any fee for revival of the application to the account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to our matter 3051-67789. Applicants believe that no other fees are required with this submission. If any other fees are required, the Assistant

Commissioner is hereby authorized to charge the same to the account of Barnes & Thornburg,  
Deposit Account No. 10-0435, with reference to our matter 3051-67789.

Respectfully submitted,



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